

ALEXANDER B. TRUEBLOOD (Cal. Bar No. 150897)
TRUEBLOOD LAW FIRM
10940 Wilshire Boulevard, Suite 1600
Los Angeles, California 90024
Telephone: (800) 616-9325
Facsimile: (800) 616-9325
Email: alec@hush.com

Attorneys for Plaintiff
DOUGLAS GALANTER

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

DOUGLAS GALANTER,

Plaintiff,

vs.

ACCESS FINANCE, INC., and LOS
ANGELES AUTO WHOLESALERS &
RECOVERY SERVICES, INC.,

Defendants.

Case No: 2:23-cv-09466 ODW (SSCx)

**FIRST AMENDED COMPLAINT
FOR:**

**(1) VIOLATIONS OF THE FAIR
DEBT COLLECTION PRACTICES
ACT**

**(2) VIOLATIONS OF THE
ROSENTHAL FAIR DEBT
COLLECTION PRACTICES ACT**

(3) CONVERSION

1 Plaintiff Douglas Galanter hereby complains against defendants Access
2 Finance, Inc. (“Access”), and Los Angeles Auto Wholesalers & Recovery Services,
3 Inc. (“LAW Recovery”), and alleges as follows:

4 **OPERATIVE FACTS**

5 1. Plaintiff entered into a \$20,000 car title loan with defendant Access on
6 or about July 29, 2020. Plaintiff intended to use the proceeds of the loan primarily
7 for personal, family, or household purposes. The loan carried an interest rate of
8 24%, and was secured by plaintiff’s 2015 Honda Accord. The loan is governed by
9 the California Financing Law, at Financial Code §§ 22000 et seq. (hereinafter
10 “CFL”).

11 2. Defendant Access, either directly or indirectly, hired defendant LAW
12 Recovery to repossess plaintiff’s Honda Accord. LAW Recovery repossessed
13 plaintiff’s vehicle on or about September 5, 2023, by entering private property,
14 which was secured by a closed and locked security gate, without the owner’s
15 permission. Accordingly, defendant LAW Recovery breached the peace in
16 conducting the repossession of plaintiff’s vehicle, in violation of California
17 Commercial Code § 9609(b) and the Collateral Recovery Act, California Bus. &
18 Prof. Code § 7508.2(d).

19 3. In further violation of the Collateral Recovery Act, at Bus. & Prof.
20 Code §§ 7507.9 and 7507.10, LAW Recovery failed to notify plaintiff in writing of
21 the seizure of the vehicle within 48 hours, and failed to mail him a written
22 inventory of the personal items it had seized.

23 4. After the repossession, defendant Access issued plaintiff a written
24 “Notice of Our Plan To Sell Property” letter (“NOI”), dated September 22, 2023,
25 and mailed it to plaintiff from Los Angeles, California. A true and correct copy of
26 the NOI is attached hereto as Exhibit 1.

27 5. In its NOI, Access denied plaintiff the right to reinstate the contract
28 and accelerated the account balance, demanding payment in full in the amount of

1 \$14,590.65. This violated Financial Code § 22329(c), which affords the consumer
2 the right to reinstate and continue with the contract after repossession unless the
3 lender has a good faith belief that one of six exceptions apply to that particular
4 consumer. The NOI unlawfully denied plaintiff reinstatement in violation of
5 Financial Code § 22329(c), by falsely stating that “You, any other person liable on
6 the contract, or any permissive user in possession of the motor vehicle, in order to
7 avoid repossession, has concealed the motor vehicle or removed it from the state.”

8 6. This statement by Access in its NOI was false. Neither plaintiff nor
9 any other person liable on the loan had concealed the vehicle, nor removed it from
10 the state, in order to avoid repossession. Moreover, Access had no reasonable, good
11 faith belief that any such thing had occurred.

12 7. In addition to violating Financial Code § 22329(c), Access violated the
13 following other requirements of the CFL in its NOI:

14 (a) Access demanded payment of storage fees in order to redeem, which were
15 not permitted by Financial Code § 22329(e);

16 (b) Access demanded payment of “collection costs” of \$675 in order to
17 redeem, which were not permitted by Financial Code § 22329(e);

18 (c) Access demanded payment of a certified mail fee of \$9.01 in order to
19 redeem, which was not permitted by Financial Code § 22329(e);

20 (d) Access demanded payment of \$495 in repossession expenses in order to
21 redeem, which were not permitted by Financial Code § 22329(e);

22 (e) Access demanded payment of excessive late fees, in violation of Financial
23 Code § 22329(e)(1);

24 (f) in violation of Financial Code § 22328(b)(3), the NOI failed to state that
25 any request to extend the redemption period by ten days had to be in writing;

26 (g) in violation of Financial Code § 22328(b)(1), the NOI failed to correctly
27 itemize the loan balance and any costs or fees authorized by the CFL; and

28 (h) the contract contains unconscionable provisions in violation of Financial

1 Code § 22302.

2 8. The legal result of defendant Access' violations of the CFL is
3 threefold: (1) if Access' violations were willful, the underlying loan is entirely void
4 pursuant to Financial Code § 22750, and Access has no right to collect and forfeits
5 any principal, charges, or recompense in connection with the transaction; (2) if
6 Access' violations were not willful, Access forfeited any right to interest on the loan
7 and charges or fees, pursuant to Financial Code § 22751(a), and may collect only
8 the principal amount of the loan; and (3) Access lost the right to collect a deficiency
9 balance, pursuant to Financial Code §§ 22329(f) and 22328(b).

10 9. Plaintiff is informed and believes, and on that basis alleges, that
11 Access' violations of the CFL were willful.

12 10. After receiving notice of this lawsuit, Access sued plaintiff on a cross-
13 claim for breach of contract. The cross-claim violated the Rosenthal Fair Debt
14 Collection Practices Act in the following ways:

15 (a) Access sued plaintiff on a debt he does not owe due to the anti-deficiency
16 and forfeiture provisions of the CFL;

17 (b) Access sued plaintiff to collect debt-related expenses which were not
18 permitted by law, including interest, repossession fees, and late fees;

19 (c) Access sued plaintiff to collect fees which were not permitted by its
20 agreement with plaintiff or by law, including repossession fees and late fees;

21 (d) Access sued plaintiff to collect loan principal which it could not collect
22 pursuant to Financial Code § 22750;

23 (e) Access sued plaintiff to collect interest and other charges which it could
24 not collect pursuant to Financial Code § 22751(a);

25 (f) Access falsely stated in the cross-claim that "There is currently a balance
26 of \$14,518.15" owed by plaintiff;

27 (g) Access falsely stated in the cross-claim that the remaining principal
28 balance due under the loan is \$11,158.73;

1 (h) Access falsely stated in the cross-claim that plaintiff owes \$2,615.41 in
2 unpaid finance charges;

3 (i) Access falsely stated in the cross-claim that plaintiff owes \$240 in late
4 fees, when he owes less than this amount;

5 (j) Access falsely stated in the cross-claim that plaintiff owes \$504.01 in
6 repossession fees and costs; and

7 (k) Access stated its intent to "liquidate" plaintiff's vehicle after it had lost its
8 security interest in the vehicle, and when plaintiff no longer owed Access any debt.

9 11. Access' violations in its cross-claim, of the CFL and the Rosenthal
10 Act, were willful.

11 12. Access' President Avishai Shrager has refused plaintiff's demand to
12 return his vehicle and the principal and interest paid under the title loan, while
13 knowing that Access violated the CFL and that Access is legally barred from
14 retaining plaintiff's property and money.

15 **JURISDICTION AND VENUE**

16 13. The court has original jurisdiction over this matter pursuant to 15
17 U.S.C. § 1692k(d). The court has supplemental jurisdiction over plaintiff's state
18 law claims pursuant to 28 U.S.C. § 1367.

19 14. Venue is proper in the Central District of California because a
20 substantial part of the events or omissions giving rise to the claim occurred in this
21 district, and defendants reside in this district.

22 **PARTIES**

23 15. Plaintiff is a natural person over the age of 18 years and is a resident of
24 the state of California.

25 16. Defendant Access Finance, Inc. is a California corporation with its
26 headquarters in Los Angeles, California.

27 17. Defendant Los Angeles Auto Wholesalers & Recovery Services, Inc.
28 is a California corporation with its headquarters in Los Angeles, California.

FIRST CAUSE OF ACTION
(Against Defendant LAW Recovery for Violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq.).

18. Plaintiff realleges and incorporates herein by reference the allegations of all paragraphs above.

19. Plaintiff is a “consumer” who allegedly owed a “debt”, and defendant is a “debt collector”, as those terms are defined at 15 U.S.C. § 1692a. Defendant uses instrumentalities of interstate commerce or the mails in a business the principal purpose of which is the enforcement of security interests.

20. Defendant violated 15 U.S.C. § 1692f(6) by taking nonjudicial action to effect dispossession or disablement of property when (1) there was no present right to possession of the property claimed as collateral through an enforceable security interest; and/or (2) the property was exempt by law from such dispossession or disablement.

21. Plaintiff is entitled to any actual damages sustained by him as a result of defendant’s conduct, in an amount according to proof, pursuant to 15 U.S.C. § 1692k.

22. Plaintiff is entitled to \$1,000 in statutory damages against defendant pursuant to 15 U.S.C. § 1692k. Defendant committed its violations willfully and knowingly, and has frequently and persistently failed to comply with the FDCPA. The nature of defendant’s violations justifies the maximum statutory damages award available.

23. Plaintiff is entitled to the costs of the action, together with a reasonable attorneys fee, pursuant to 15 U.S.C. § 1692k.

WHEREFORE, plaintiff prays for relief as set forth below.

SECOND CAUSE OF ACTION
(Against All Defendants for Violations of the Rosenthal Fair Debt Collection Practices Act, Cal. Civil Code § 1788 et seq.)

24. Plaintiff realleges and incorporates herein by reference the allegations of all paragraphs above.

1 25. The California Legislature has found that “unfair or deceptive debt
2 collection practices undermine the public confidence which is essential to the
3 continued functioning of the banking and credit system and sound extensions of
4 credit to consumers.” Cal. Civ. Code § 1788.1(a)(2). It thus enacted the Rosenthal
5 Fair Debt Collection Practices Act, Cal. Civ. Code §§ 1788, et seq. (the “Rosenthal
6 Act”), to ensure the integrity of our banking and credit industry. Id. § 1788.1(b).

7 26. Plaintiff is a “debtor” within the meaning of Cal. Civ. Code §
8 1788.2(h) in that he is a natural person from whom defendants sought to collect a
9 “consumer debt” alleged to be due and owing by reason of a consumer credit
10 transaction. “Debt” is defined under the Rosenthal Act to mean “money, property
11 or their equivalent which is due or owing or alleged to be due or owing from a
12 natural person to another person.” Cal. Civ. Code § 1788.2(d).

13 27. The defendants at all times relevant herein were “debt collectors”
14 within the meaning of Cal. Civ. Code § 1788.2(c), in that they regularly and in the
15 ordinary course of business, on behalf of themselves or others, engage in acts and
16 practices in connection with the collection of money or property which is due or
17 alleged be due or owing by reason of a consumer credit transaction.

18 **Defendant LAW Recovery's Rosenthal Act Violations**

19 28. Defendant LAW Recovery violated Civil Code § 1788.10(a) by using
20 criminal means to cause harm to the property of plaintiff. LAW Recovery
21 committed misdemeanors by violating Bus. & Prof. Code §§ 7507.9 and 7501.10,
22 and Bus. & Prof. Code § 7508.2(d), pursuant to Bus. & Prof. Code § 7502.1(a).
23 LAW Recovery committed the crime of trespass in violation of Penal Code §§
24 602(k) and (n). LAW Recovery committed the crime of vandalism in violation of
25 Penal Code § 594 by maliciously damaging the entrance gate to the apartment
26 complex where it repossessed plaintiff's vehicle.

27 29. Defendant LAW Recovery violated Cal. Civ. Code § 1788.17,
28 incorporating by reference 15 U.S.C. § 1692f(6), by using unfair or unconscionable

1 means to collect or attempt to collect an alleged debt.

2 30. LAW Recovery violated Civil Code § 1788.17, incorporating by
3 reference 15 U.S.C. § 1692b and 1692c, by communicating with third parties about
4 plaintiff's account or vehicle, without plaintiff's permission.

5 31. LAW Recovery violated Civil Code § 1788.12(b) by communicating
6 information about a consumer debt to a member of plaintiff's family.

7 32. LAW Recovery violated Civil Code § 1788.11(b) by placing telephone
8 calls without disclosing the caller's identity.

9 **Defendant Access' Rosenthal Act Violations**

10 33. Defendant Access violated Civil Code § 1788.10(a) by using criminal
11 means to cause harm to the property of plaintiff. Access committed misdemeanors
12 under Financial Code § 22753 by willfully violating the CFL.

13 34. Defendant Access violated Civil Code § 1788.14(b) by attempting to
14 collect fees, charges, or expenses related to the alleged debt, which were not
15 permitted by law.

16 35. Access violated Civil Code § 1788.17, incorporating by reference 15
17 U.S.C. § 1692b and 1692c, by communicating with third parties about plaintiff's
18 account or vehicle, without plaintiff's permission. Access is also vicariously liable
19 for LAW Recovery's violations of this provision.

20 36. Access violated Civil Code § 1788.12(b) by communicating
21 information about a consumer debt to a member of plaintiff's family. Access is also
22 vicariously liable for LAW Recovery's violations of this provision.

23 37. Access is vicariously liable for LAW Recovery's violations of Civil
24 Code § 1788.11(b).

25 38. Defendant Access violated Cal. Civ. Code § 1788.17, incorporating by
26 reference 15 U.S.C. § 1692e, by using, false, deceptive, or misleading
27 representations or means in connection with collection of an alleged debt.

28 39. Defendant Access violated Cal. Civ. Code § 1788.17, incorporating by

1 reference 15 U.S.C. §§ 1692d, by engaging in conduct the natural consequence of
2 which was to harass, oppress, or abuse any person.

3 40. Defendant Access violated Cal. Civ. Code § 1788.17, incorporating
4 by reference 15 U.S.C. § 1692f, by using unfair or unconscionable means to collect
5 or attempt to collect an alleged debt.

6 41. As a proximate result of defendants' violations of the Rosenthal Act,
7 plaintiff has been damaged in amounts which are subject to proof. Plaintiff is
8 entitled to recover his actual damages pursuant to Cal. Civ. Code § 1788.17,
9 incorporating by reference 15 U.S.C. § 1692k(a)(1), or in the alternative, Cal. Civ.
10 Code § 1788.30(a).

11 42. Defendants' violations of the Rosenthal Act were willful and knowing.
12 Plaintiff is entitled to recover statutory damages of \$2,000 per defendant pursuant
13 to Cal. Civ. Code § 1788.17, incorporating by reference 15 U.S.C. §
14 1692k(a)(2)(A), and Cal. Civ. Code § 1788.30(b).

15 43. Plaintiff is entitled to recover his attorneys fees and costs pursuant to
16 Cal. Civ. Code § 1788.17, incorporating by reference 15 U.S.C. § 1692k(a)(3), or in
17 the alternative, Cal. Civ. Code § 1788.30(c).

18 WHEREFORE, plaintiff prays for relief as set forth below.

19 **THIRD CAUSE OF ACTION**
20 **(Against All Defendants for Conversion)**

21 44. Plaintiff realleges and incorporates herein by reference the allegations
22 of all paragraphs above.

23 45. Plaintiff was entitled to immediate possession of his vehicle when it
24 was repossessed by defendant LAW Recovery. Defendant LAW Recovery was not
25 entitled to breach the peace or violate the Collateral Recovery Act in order to
26 repossess the vehicle. Defendant LAW Recovery wrongfully deprived plaintiff of
27 possession of his vehicle by repossessing it in breach of the peace and in violation
28 of the Collateral Recovery Act.

46. Plaintiff was entitled to immediate possession of his vehicle after it

1 was repossessed, pursuant to his statutory right to reinstate the contract under the
2 CFL. Defendant Access wrongfully deprived plaintiff of possession of his vehicle
3 by improperly denying him his right of reinstatement, and sending him a defective
4 NOI which demanded unlawful charges.

5 47. Plaintiff was entitled to immediate possession of his vehicle after
6 Access violated the CFL in the NOI and the cross-claim, because the loan and
7 security interest were rendered void by operation of law. Access nevertheless has
8 retained custody of plaintiff's vehicle and has stated it plans to "liquidate" it.

9 48. Defendant Access has converted the principal, interest and other
10 charges plaintiff paid on the underlying title loan to its own use, after that loan
11 became void or partially void, in violation of Financial Code §§ 22750 and 22751.
12 Plaintiff is entitled to immediate possession of these funds pursuant to the CFL.

13 49. Plaintiff has suffered and is entitled to recover damages for
14 defendants' conversions.

15 50. Defendants acted with malice, oppression, and/or fraud towards
16 plaintiff, thereby entitling him to an award of punitive damages. Defendants'
17 corporate officers, directors, or managing agents are personally guilty of
18 oppression, fraud or malice, had advance knowledge of the unfitness of the
19 employees who acted towards plaintiff with malice, oppression, or fraud, employed
20 such employees with conscious disregard for the rights or safety of others, and/or
21 themselves authorized or ratified the wrongful conduct or knowingly accepted and
22 retained the benefits of the wrongdoing.

23 51. Plaintiff is informed and believes, and on that basis alleges, that
24 defendant Access' President, Avishai Shruga, made the decision to deny plaintiff
25 reinstatement, knowing that plaintiff had not concealed the vehicle nor removed it
26 from the state. Shruga also made the decision to unlawfully retain plaintiff's
27 vehicle and threaten to sell it, after the underlying loan was rendered void or
28 partially void by operation of the CFL. Shruga also made the decision to retain the

1 principal, interest, and other charges plaintiff had paid on the loan, after the loan
2 became void or partially void. Shraga made these decisions with malice, and in
3 conscious disregard of plaintiff's rights.

4 52. Plaintiff is further informed and believes, and on that basis alleges,
5 that defendant Access has a corporate policy of denying reinstatement to consumers
6 after repossessing their vehicles for reasons not authorized by the CFL, and that
7 defendant Access' President, Avishai Shraga, is the author of that malicious policy,
8 which he consciously and knowingly implemented and continues to practice today,
9 in conscious disregard of the rights of Access' customers.

10 WHEREFORE, plaintiff prays for relief as set forth below.

11 **PRAYER FOR RELIEF**

12 WHEREFORE, plaintiff prays for the following relief:

- 13 1. For actual damages,
14 2. For statutory damages;
15 3. For punitive damages;
16 4. For pre-judgment interest to the extent permitted by law;
17 5. For an award of attorneys' fees, costs and expenses incurred in the
18 investigation, filing and prosecution of this action; and
19 6. For such other and further relief as the Court may deem just and proper.

20 **DEMAND FOR JURY TRIAL**

21 Plaintiff hereby demands a trial by jury.
22

23 Dated: February 27, 2024

Respectfully Submitted,

24 TRUEBLOOD LAW FIRM

25
26
27 By: /s/ Alexander B. Trueblood

28 Attorneys for Plaintiff
DOUGLAS GALANTER